

National Aeronautics and
Space Administration



FOUR IMPORTANT CHANGES



DRUG-FREE WORKPLACE PROGRAM

ON OCTOBER 1, 2006, NASA WILL IMPLEMENT THE FOLLOWING FOUR CHANGES TO THE DRUG-FREE WORKPLACE PROGRAM (DFWP):

1. PRE-EMPLOYMENT TESTING

Any applicant tentatively selected for a Testing Designated Position (TDP), including a current NASA employee who prior to his/her selection for the TDP has **not** been subject to random drug testing, shall be subject to pre-employment testing for illegal drug use. A negative test result is required prior to entering on duty.

2. TESTING FOR MARIJUANA, COCAINE, PCP, AMPHETAMINES, AND OPIATES

In the past, NASA has only tested for marijuana and cocaine (except in unique circumstances) as required by regulation; however, regulation allows Federal agencies to test for all five drugs above, and agencies are encouraged to do so.

3. THE TESTING OF 25% OF ALL TDPS ANNUALLY

Approximately 6,000 positions, or one-third of NASA's total civil service workforce, have been identified as TDPs subject to random drug testing. Twenty-five percent of employees

occupying TDPs, or about 1,500 employees, will be randomly tested for illegal drug use annually. Testing will be conducted at least four times a year.

4. REVISED CRITERIA FOR THE IDENTIFICATION OF TDPS

A TDP is a position that has been identified as such based on the function of the position. The employee occupying the position will be subject to random selection for testing for illegal drug use.

NASA's criteria for the identification of TDPs have been revised to be consistent with the most recent Federal guidance. This guidance established a core group of safety-sensitive positions as TDPs, based on the function of the positions, to be included in all Federal agency plans. For example, an employee who carries or has access to a firearm or an employee having access to sensitive information requiring a security clearance of secret or higher. In addition, other NASA-specific functions not included in the Federal guidance have been identified for the determination of TDPs; for example, an employee who works with explosives, an employee who performs hands-on maintenance of major mechanical equipment that is mission critical, or an employee who is certified under the Personnel Reliability Program.

Appendix B of NASA Procedural Requirements (NPR) 3792.1 provides a detailed description of the criteria that must be met in order for a position to be determined to be a TDP, in addition to the occupational series and titles of positions that may meet the criteria and be subject to random drug testing.

Questions and Answers about NASA's Drug-Free Workplace Program (DFWP):

Q. Why does NASA have a DFWP?

A. Executive Order (EO) 12564, Drug-Free Federal Workplace, signed by President Reagan on September 15, 1986, established the goal of a drug-free workplace and made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty. In addition, the Civil Space Employee Testing Act of 1991 directed NASA to establish a drug testing program.

Q. What are the key features of the NASA DFWP?

A. NPR 3792.1 is NASA's comprehensive plan for a drug-free workplace designed to deter illegal drug use, and it emphasizes the following:

- The opportunity for counseling, assistance, and rehabilitation to an employee who is using illegal drugs.
- Treating an employee with personal dignity and respect for his/her privacy when drug testing is necessary.
- A "Safe Harbor" provision. An employee who voluntarily identifies him/herself as a user of illegal drugs to his/her supervisor, attends and successfully completes an appropriate counseling or rehabilitation program, and remains drug-free thereafter will not be disciplined.

While it is NASA's intent to help an employee overcome his/her drug-related problems, illegal drug use will not be tolerated.

Q. What types of testing are included in the NASA DFWP?

- **Pre-employment Testing.** Testing, as a condition of employment, of any applicant tentatively selected for a TDP.
- **Random Testing.** Unannounced testing of an employee in a TDP selected on a random basis.

- **Reasonable Suspicion Testing.** Testing of any employee based on observable phenomena, an arrest or conviction for a drug-related offense or criminal investigation, information provided by a reliable/credible source or independently corroborated, or new evidence that an employee tampered with a previous test result.
- **Accident or Unsafe Practice Testing.** Authorized testing of an employee because of an accident or unsafe practice that occurred on the job and caused or may have contributed to serious injury or death of another or damage to Government or personal property.
- **Follow-up Testing.** Unannounced testing of an employee who successfully completes rehabilitation for illegal drug use who is subject to at least four unannounced tests for a period of at least one year.
- **Voluntary Testing.** Unannounced testing of an employee who is not in a TDP who volunteers to be included in the pool from which employees are selected for random testing.

Q. If I am not in a TDP, will I be subject to testing?

A. No; generally, an employee not in a TDP will not be subject to testing; however, such an employee could be tested:

- based on reasonable suspicion of illegal drug use;
- as a part of an investigation into an accident or unsafe practice;
- after rehabilitation as a result of a finding of illegal drug use (i.e., follow-up testing); or
- if he/she volunteers to be included in the pool of employees subject to random testing.

If it is determined that an employee who is not in a TDP has used illegal drugs, the employee will be subject to the provisions of the DFWP.

Q. How is my privacy protected?

A. The NASA DFWP protects an employee's privacy in two ways:

1. Personal Privacy and Dignity. NASA employees who are tested for drugs provide urine specimens in private; however, there may be exceptions, such as:

- At the scene of an accident.
- When the collector has reason to believe an employee may try to alter or substitute the specimen or has altered or substituted the specimen (subject to Agency approval).
- When the Medical Review Officer (MRO) directs the Agency to do so because of the result of a previous test (e.g., invalid or negative and dilute).

When observation is required, someone of the same gender will observe the employee.

2. Confidentiality of Records. Urinalysis test results are protected in accordance with Privacy Act safeguards. Thus, only Agency management personnel with a “need to know” may have access to the test results. These officials include the MRO, the Employee Assistance Program (EAP) Coordinator, the Drug Program Coordinator, and the management official empowered to recommend or take an adverse personnel action. In addition, records of the identity, diagnosis, prognosis, or drug-abuse treatment of an employee are subject to the physician-patient privilege.

Q. What assurances are there that my drug test results are really mine?

A. The NASA DFWP follows the Department of Health and Human Services (HHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs which mandate strict “chain of custody” procedures for collecting, transferring, analyzing, and storing the specimen. With each transfer of possession, the chain of custody form will be dated, signed, and annotated as to the purpose of the transfer. Any break in the chain of custody will result in no testing of the specimen by the laboratory or in a rejection of the result by the MRO.

Q. If my test result is non-negative (e.g., positive, substituted, adulterated, or invalid), will I be given an opportunity to contest the results?

A. Yes, if an employee’s test result is non-negative, s/he will be given an opportunity to offer an explanation or justification for the result to the MRO. For example, a valid explanation for a positive result would be when an employee is taking a prescribed medication. In addition, an employee may request a retest of the specimen. The retest will be conducted at NASA’s expense in the NASA contractor laboratory, or the employee can request the retest at another HHS certified laboratory. In the latter case, the laboratory used by NASA for the first test will send a portion of the specimen to the laboratory designated by the employee. The cost of this test must be paid by the employee.

Q. Is an employee fired if his/her test result is non-negative (e.g., positive, substituted, adulterated, or invalid)?

A. NASA is committed to providing employees who have a drug problem with the opportunity to overcome the problem without jeopardizing their livelihood, except where doing so might compromise public safety. If it is determined that an employee has used illegal drugs, s/he will be offered an opportunity for counseling and rehabilitation and appropriate disciplinary action will be initiated. Disciplinary action may include any of the following:

- Reprimanding the employee in writing;
- Placing the employee in an enforced leave status;
- Suspending the employee for 14 days or less;
- Suspending the employee for 15 days or more;
- Suspending the employee until s/he successfully completes rehabilitation or until NASA determines what action other than suspension is more appropriate; or
- Removing the employee from Federal service.

Any employee who is found to be in the possession of, involved in the sale or distribution of, or using illegal drugs on duty is subject to the full range of disciplinary consequences, including removal.

Q. Does an employee’s supervisor learn of a non-negative (e.g., positive, substituted, adulterated, or invalid) test result?

A. Yes, to the extent necessary to approve leave for counseling and treatment and to initiate disciplinary action.

Q. Is an employee notified of a negative test result?

A. Yes.

Q. How often can someone in a TDP be tested?

A. Under random testing, an individual employee would be tested whenever the sampling method picks him/her. Since all TDPs at a Center are in that Center's pool, each employee is subject to be tested each time names are selected. The likelihood of someone being tested frequently may be small but the possibility exists.

Q. Can an employee voluntarily admit illegal drug use, get assistance, and avoid discipline for such use?

A. Yes. Prior to being directed to report for testing, if an employee voluntarily admits his/her illegal drug use to his/her supervisor, agrees to enter and successfully complete a treatment program, and, thereafter, refrains from illegal drug use, no disciplinary action will be initiated (i.e., "Safe Harbor" provision).

Q. Who pays for rehabilitation?

A. An employee found to be using illegal drugs, either by voluntary admittance or as a result of a drug test, will be referred to the EAP for assistance. The EAP offers appropriate prevention, short-term counseling, referral for treatment, and rehabilitation services to employees for a wide range of emotional and behavioral problems, including alcohol and drug abuse. Short-term counseling is available with no cost to the employee. All Federal Employees Health Benefits (FEHB) carriers offer some type of substance abuse care coverage. Long-term rehabilitation treatment, where not covered by insurance, would be at the employee's expense.

Q. Where do I go if I want more information on NASA's DFWP?

A. Additional information regarding NASA's DFWP can be found at http://www.nssc.nasa.gov/customerservice/hr/support_to_personnel/drug_testing/index.htm. Questions should be directed to the NASA Shared Services Center at 1-877-NSSC-123 (1-877-677-2123) or www.nssc-contactcenter@nasa.gov.